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Food and Agricultural Import Regulations and Standards

Annual

2007

Approved by:

Laura Scandurra

U.S. Embassy

Prepared by:

Vinita Sharma

Report Highlights:

This report outlines regulatory requirements for food and agricultural products exported to New Zealand, including labeling, packaging, and food additive regulations and other regulations and requirements.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Wellington [NZ1]
[NZ]

NEW ZEALAND FOOD IMPORT REGULATIONS AND STANDARDS

DISCLAIMER: This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Wellington, New Zealand for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. **FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.**

Please contact this office if you have any comments, corrections or suggestions about the material contained in this report:

Office of the Agricultural Attaché
Foreign Agricultural Service, U.S. Embassy
29 Fitzherbert Terrace
Thorndon, Wellington, New Zealand

Phone: +64-4-462-6030; Fax: +64-4-462-6030; Email: agwellington@fas.usda.gov

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SECTION I: FOOD LAWS

Food Legislation

In New Zealand, food is regulated by the Food Act of 1981. This legislation sets out the provisions by which food regulations and standards are issued and enforced. The following factors must be taken into account when developing food standards in New Zealand: the need to protect public health; the desirability of avoiding unnecessary restrictions on trade; and maintaining consistency with international food standards and agreements, in particular, the Australia New Zealand Joint Food Standards Agreement.

There are five New Zealand food standards implemented under the Food Act. These are the Australia New Zealand Food Standards Code; Bee Product Warning Statements – Dietary Supplements; Maximum Residue Limits of Agricultural Compounds; Milk and Milk Products Processing; and Prescribed Foods.

Australia New Zealand Food Standards Code

Australia and New Zealand signed an agreement in December 1995 that established the intention to develop a joint food standards system as a means of protecting public health while facilitating trade. This agreement resulted in the formation of a joint Australia - New Zealand food regulation agency, Food Standards Australia New Zealand (FSANZ), and development of the Australia New Zealand Food Standards Code (otherwise known as [the Code](#)). The Code was adopted in New Zealand in February 2001 and took full effect in December 2002.

The Code, which is administered by FSANZ, contains requirements relating to food production including food composition, additives, labeling, contaminants, and genetic modification. It is broken down into four chapters: general food standards; commodity standards; food safety standards (Australia only); and primary product and processing standards (Australia only). All food products produced in New Zealand or imported into New Zealand must comply with the standards in the Code. In New Zealand, the standards in the Code are enforced by the New Zealand Food Safety Authority (NZFSA).

The Code contains many generic standards that apply across all classes of foods e.g. standards concerning food labeling; substances added to foods (such as additives, processing aids); contaminants and residues; foods requiring pre-market clearance including foods derived from genetically modified (GM) organisms; and microbiological limits. Depending on the type of food, the Code may contain a number of specific requirements regarding the composition of the food. For instance, there are requirements dictating the composition of peanut butter, ice cream and chocolate, among others. GM foods can only be sold in New Zealand if Food Standards Australia New Zealand (FSANZ) has assessed them for safety and approved them for sale. At present, FSANZ has approved ingredients derived from GM corn, canola, soy and sugar beet for use in food in New Zealand and is considering ingredients derived from GM rice. The Code also specifies the additives that can be added to food. Additives cannot be used in food unless FSANZ has assessed them for safety. The Code also contains permissions for addition of vitamins and minerals to specific foods.

New Zealand Food Standards

A number of areas are outside the scope of the joint system and are covered under the [New Zealand Food Standards](#). These include:

- Maximum residue limits of agricultural compounds in food;
- Food hygiene and food safety provisions (including high risk imported foods);

- Export requirements relating to third country trade; and,
- Dietary supplements.

B. Key Organizations

New Zealand organizations that play key roles in regulating the food supply include: the New Zealand Food Safety Authority (NZFSA), Food Standards Australia New Zealand (FSANZ), and Biosecurity New Zealand, which is part of the Ministry of Agriculture and Forestry (MAF).

New Zealand Food Safety Authority

Established in 2002, the [New Zealand Food Safety Authority](#) (NZFSA) is the controlling authority for imports and exports of food and food related products. NZFSA administers legislation covering:

- food for sale in New Zealand;
- primary processing of animal products and official assurances related to their export;
- exports of plant products and the controls surrounding registration; and
- use of agricultural compounds and veterinary medicines.

A significant NZFSA initiative is the Domestic Food Review - the biggest review of all the legislation and regulations relating to food sold in New Zealand in 30 years. The Review covers government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported, imported and traded in New Zealand. The goal of the review is to improve the food regulatory environment. If approved, the recommendations in the Domestic Food Review are expected to be implemented in July 2008 and will include a five-year transition period, which will conclude in 2013.

In concert with the Domestic Food Review, NZFSA is in the process of implementing the outcomes of the Imported Food Review, which was completed in 2004. The Imported Food Review covered all imported foods and beverages, agricultural compounds (including fertilizers and animal feeds), veterinary medicines and pet foods. The new framework puts more emphasis on due diligence by importers. It essentially moves away from an inspection driven system to one that is based on recognizing exporting country systems and assurances supplemented with monitoring and surveillance.

Key features of the proposed framework are improved information collection and management and a more targeted surveillance program to manage emerging issues. All imported foods will be categorized into high, medium or low risk categories and high-risk foods will be subject to pre-entry assurance arrangements. In addition, the proposed system will include a registration program, which will require all importers to register with NZFSA so that their operations can be verified. Importers will be required to take responsibility for the safety and suitability of imported foods via Food Control Plans or by operating under a National Imported Food Program. Border clearance procedures will be simplified and modernized with use of technology such as electronic certification.

NZFSA expects that the move away from relying on testing at the border to recognizing programs and systems operating in exporting countries will provide more confidence that imported food meets New Zealand standards or are produced under controls equivalent to New Zealand's domestic controls. Another benefit is that the proposed new regime should provide more certainty for both importers and exporting countries. The proposed new regime will be implemented in stages over the next few years.

Food Standards Australia New Zealand (FSANZ)

[Food Standards Australia New Zealand \(FSANZ\)](#), a statutory authority operating under the [Food Standards Australia New Zealand Act 1991](#), was established in 2002. Its primary objectives are: the protection of public health and safety; provision of adequate information to consumers to make informed choices; and the prevention of misleading or deceptive conduct. As such, FSANZ is responsible for setting food standards that govern the content and labeling of foods sold in both New Zealand and Australia. The standards cover food composition, labelling and contaminants, including microbiological limits. In New Zealand, NZFSA enforces these standards.

FSANZ has recently approved standards for the mandatory fortification of wheat flour for bread with folic acid. New Zealand is in the process of obtaining public comments of this standard prior to implementation.

FSANZ is considering whether or not there should be a requirement to fortify certain foods with iodine. It is also developing a standard regarding health claims. The health claim standard is nearing completion and includes three types of health claims (nutrition claims, general level claims referencing non-serious diseases and high level claims referencing serious diseases), eligibility criteria and labeling requirements.

FSANZ has also reviewed the dietary intake of trans fatty acids in Australia and New Zealand, assessed the risk to consumers, and recommended a non-regulatory response. FSANZ coordinates the Australia New Zealand Collaboration on Transfats. The Collaboration's key objective is to develop non-regulatory approaches to managing trans fatty acids in the Australian and New Zealand food supply.

Biosecurity New Zealand

[Biosecurity New Zealand](#) is the agency within the Ministry of Agriculture and Forestry (MAF) with the lead role in biosecurity protection (e.g. preventing unwanted pests and diseases being imported into New Zealand, and for controlling, managing or eradicating them should they arrive).

Non-processed products cannot be imported into New Zealand unless an import health standard has been developed. Import health standards specify the biosecurity requirements that must be met for trade to occur.

Biosecurity New Zealand introduced a new system for prioritizing and funding biosecurity import health standards on July 1, 2006. Biosecurity New Zealand uses this system to prioritize requests for import health standards received from both trading partners and private sector applicants, and to develop its work program for the financial year. This new system is one of several measures to address the gap between demand and New Zealand's capacity to deliver import health standards. In 2007, the second year of prioritizing requests for import health standards, MAF Biosecurity New Zealand received a total of 211 requests, of which 110 were requests from the competent authorities of other countries. Of the 211 requests, 21 new requests were put on the work plan and 67 were carried over from the previous year. The 2007 work plan includes 99 items; 21 new items and 67 items held over from previous years.

Briefly, the process for developing import health standards is as follows:

- Every year, around December, MAF invites applications or reconfirmations of requests for import health standard work for the year starting next July, along with an indication of whether applicants would be willing to fund the work.
- MAF compiles a list of all the “live” requests for import health standard work for the coming year.
- MAF officials pre-screen the requests using a set of prioritisation criteria. The pre-screen identifies those requests that clearly will not be prioritised high enough to be progressed during the year. The prioritization criteria include: strategic fit with the New Zealand Government’s goals, net benefit for New Zealand, technical difficulty of the work, acceptability of the result for New Zealanders, and the availability of suitable resources.
- An expert panel including MAF, other government departments and experienced independent persons, then prioritises the remaining import health standard requests using the same prioritisation criteria.
- Once MAF has a prioritised list of requests, the Crown-funded resources are matched to the highest priority items to form the Crown-funded portion of the work program.
- The remaining applicants who indicated that they would be prepared to fund their application will then, in priority order and provided suitable contracted or staff resources are available, be invited to consider funding development of their standard.
- The annual import health standard development work programme is then be finalised, comprising both Crown and privately funded resources.
- Applicants are then advised of the result for their application and the prioritised list of all requests and the annual work programme published on the MAF Biosecurity New Zealand website.

Requests for the development of import health standards for the year starting July 2008 must be submitted in November or December of 2007. Lists from competent authorities should be provided in priority order. More detailed information is available at:

<http://www.biosecurity.govt.nz/commercial-imports/import-health-standards/funding-management-system.htm>

SECTION II: LABELING REQUIREMENTS

Food sold in New Zealand must be labeled in accordance with the Australia New Zealand Food Standards Code (otherwise known as [the Code](#)).

Food Labeling Requirements

Most food for sale in New Zealand must be clearly labeled in English (other languages can be used in addition to English, as long as they do not contradict the information). Specific health and safety information about some food products must be given to consumers even when a complete label is not required (for example the presence of caffeine or allergenic substances). Additional labeling statements may be required under the individual food product standards specified in the Code. (See Standard 1.2.2 - 1.2.10 of the Food Code for specifics.)

Labels must include the following information:

- **The name of the food:** Food products must be accurately named and/or described on the label. If a name is specified for the food in the Food Standards Code then this name must be used.

- **Lot identification:** This is information that clearly indicates the premises where the food was packaged and/or prepared and the batch from which it came, to assist should there be a food recall. A date mark and supplier's address may be sufficient.
- **Name and address:** The supplier's name and business (street) address in New Zealand or Australia. (Note: "Supplier" includes packer, manufacturer, vendor or importer of the food.)
- **Mandatory warning statements, advisory statements and declarations for certain ingredients/substances:** Some products must have special advisory and warning statements about the food or ingredients/substances in a food (e.g. food containing unpasteurised egg must advise/state that the product contains unpasteurised egg and foods containing royal jelly must include a specific *warning* statement). This information must be available even where a complete label is not required. Warning statements must appear on labels on 3mm type (1.5mm for small packages).
- **Mandatory declaration of certain ingredients/substances:** The presence of common food allergens and food/ingredients that commonly cause food intolerances (e.g. peanuts, gluten) must be declared on food labels, or where a complete label is not required, the information must be available to the consumer.
- **Ingredient list:** All ingredients must be listed by their common name, a description or, where specified in the Food Standards Code, the generic name, in descending order of in-going weight. Ingredients are any substances used in the preparation, manufacture and handling of a food and include food additives, compound ingredients (any ingredient that is itself made up of two or more ingredients), and added water.
- **Food additives:** The class name of the additive (where specified in the Food Standards Code) followed by the additive's specific name or code number must be declared. Where the additive is a vitamin or mineral the class name "vitamin" or "mineral" may be used.
- **Date marking:** Most packaged foods with a shelf life of less than two years must have one of the following date marks:
 - **"Use By"** dates, which relate to food safety. Foods with a "Use By" date should not be consumed after the date indicated for health and safety reasons. Food cannot be sold beyond their "Use By" date.
 - **"Best Before"** dates, which relate to quality. Foods should be consumed by their "Best Before" date to ensure quality. Foods can be sold beyond their "Best Before" date provided it is still fit for consumption.
 - **"Baked On"** and **"Baked For"** dates can be used for breads with a shelf life of less than 7 days.
- **Directions for use and storage:** Storage instructions must be provided where necessary to ensure that the food will keep for the period indicated by the date mark and/or where the consumer should be aware of any storage and use requirements necessary to ensure the food safety.

Nutrition Information Panel: The nutritional information panel (NIP) must be set out specifically as shown below and is required on most packaged food products. Where average quantities or minimum/maximum quantities are given this must be indicated in the NIP.

- **Percentage labeling:** The percentage of the characterizing ingredients, and/or components of most food products must be indicated on the label.
- **Net content** is required under the Weights and Measures Regulations 1999.

Example of a Blank Nutrition Information Panel

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100g (or 100mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
- saturated	g	g
Carbohydrate	g	g
sugars	g	g
Sodium	mg (mmol)	mg (mmol)
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

Labeling Requirements for Food Produced using Gene Technology

Genetically modified ingredients and foods can only be sold in New Zealand if they have been assessed for safety and approved by FSANZ. New Zealand and Australia have one of the most comprehensive labelling regimes for genetically modified (GM) foods in the world. As of December 2001, wherever a GM ingredient, additive or processing aid is present in the final food, the food must be labelled. A typical ingredient list for a food containing a GM ingredient is as follows:

Ingredients: wheat flour, water added, yeast, soya flour (genetically modified), vegetable oil, sugar, emulsifiers (471, 472E), preservative (282), enzyme amylase.

Where ingredients derived from GM plants - such as sugars, oils and some GM additives and processing aids - have been refined to the extent that there is no residual genetic material or protein of the source plant in the final product, and the product does not have altered characteristics, special labelling is not required. Another exemption to the labelling requirements in processed foods are GM flavors, which are allowed to be present up to a level of one part in a thousand in the final food without being identified as GM. Foods prepared from GM ingredients, additives and processing aids, but sold unlabelled at the point of sale for immediate consumption - e.g. restaurants, hotels and take-aways - are also exempt from labelling requirements.

NZFSA is responsible for the enforcement of GM food labeling standards in New Zealand. For additional information, review [Standard 1.5.2](#), which regulates the sale of genetically modified foods in Australia and New Zealand and was incorporated into the Food Standards Code on May 13, 1999 and amended on December 7, 2000.

SECTION III: PACKAGING AND CONTAINER REQUIREMENTS

Food Packaging Materials

Under the New Zealand Food Act of 1981, packaging material must not cause food to be unsafe or tainted. In addition, specific requirements in the Code, which relate to contaminants, must also be met ([Standard 1.4.3](#) Articles and Materials in Contact with Food). It is the responsibility of food manufacturers and sellers to ensure their products are safe and that they comply with legislation. In practice, packaging suppliers will need to ensure

their products are suitable for the intended use. Compliance with recognized international food standards such as those of the European Union (EU) or the United States Food and Drug Administration would be reasonable evidence that materials are suitable for food use.

Wood Packaging Materials Used for Shipping Products to New Zealand

Under the Biosecurity Act (1993) importers must comply with an Import Health Standard (IHS) that outlines phytosanitary requirements for wood packaging material to be given biosecurity clearance into New Zealand. The IHS for "[Wood Packaging Material from All Countries](#)" has been developed under the requirements of the Biosecurity Act (1993) and New Zealand's obligations under the International Plant Protection Convention (1997).

Import Health Standard for Sea Containers

All sea containers must be deemed to be free from contamination before they will be given biosecurity clearance by an inspector. (Find the current Import Health Standard here: [Sea Containers from All Countries](#).)

From September 1, 2003 onwards, all imported containers must be covered by documentation giving the following information pertaining to the container and the cargo (if any) within: container number, origin (where the container was packed), the port at which the container was first loaded aboard a vessel for shipment to New Zealand, exporter, importer, a complete and accurate description of the contents, including packaging, a quarantine declaration, and treatment certification if applicable.

In addition to the above, some containers are deemed to be "high risk". These must be subjected to either:

- Six-sided external inspection on the port area by an inspector within 48 hours of discharge, or
- Fumigation with methyl bromide, or
- Be accompanied by an official phytosanitary certificate attesting to the container's freedom from specific contamination, or
- Have undergone a decontamination or certification system approved by the Director, Border Management for use in lieu of external inspection.

To expedite clearance, additional certification of containers as free from restricted packaging and free of contamination of either the external or internal surfaces of the container or both is an option. In certain circumstances, certification may cover multiple arrivals of containers for periods of up to one year.

Import Health Standard for Air Containers

Air containers used for the import of food products into New Zealand must meet a minimum standard of cleanliness. All parts of the container including the internal and external sides must be free of contamination. Every container must also be free of any of the following:

- Animals, insects or other invertebrates (any life cycle stage), egg casings or rafts, or any organic material of animal origin (including blood, bones, fiber, meat, secretions, excretions, etc);
- Plants or plant products (including fruit, seeds, leaves, twigs, roots, bark, saw dust, or other organic material); or
- Soil or water

For additional information, see the MAF import health standard: [Air Containers from any Country](#) (MAF Regulatory Authority 152.07.011).

SECTION IV: FOOD ADDITIVE REGULATIONS

FSANZ is responsible for the development and modification of food standards in the *Food Standards Code*. The section of the code that governs food additives, Standard 1.3.1, has been in force for several years. It was developed on the basis of food additive provisions from the former Australia Food Standards Code and the former New Zealand Food Regulations, 1984. The Code addresses additives in two ways. Some additives have specific permissions and levels allowed in food. Others are permitted at levels determined by GMP (Good Manufacturing Practice).

The Confederation of Food and Drink Industries of the European Community developed the basic food classification system that was modified to categorize Australian and New Zealand foods into Schedule 1 of the standards concerning food additives (Standard 1.3.1 of the Code). Over the past few years, feedback from stakeholders has suggested that there has been some difficulty in interpreting Schedule 1 and other relevant clauses in the standard. FSANZ is in the process of making changes to Schedule 1 and to individual clauses to clarify and improve the Standard. This work is likely to be finalized in 2008.

Information regarding applications for the approval of new food additive is available at: <http://www.foodstandards.gov.au/standardsdevelopment/informationforapplic559.cfm>

Special note should be taken for additives that are genetically modified. For more information on the declaration of genetically modified ingredients see FSANZ guideline: [Labeling Genetically Modified Food](#).

SECTION V: PESTICIDES AND OTHER CONTAMINANTS

Contaminants and Natural Toxicants

FSANZ sets standards for the maximum levels (MLs) of specified metal and non-metal contaminants and natural toxicants in nominated foods.

Pesticide Residues and Chemical Contaminants

The upper limit of agricultural and veterinary chemical residue allowed in a food is known as the Maximum Residue Limit (MRL). FSANZ sets MRLs for Australia only, and these are in the Code. NZFSA has responsibility for setting and enforcing MRLs in New Zealand.

Microbiological Contaminants

FSANZ sets microbiological limits for foods in both countries.

SECTION VI: PROCESSING REQUIREMENTS

FSANZ sets processing requirements for Australian food producers. NZFSA sets processing requirements for New Zealand producers. In general, food producers are required to ensure foods are both safe and suitable and to adopt a risk management approach to processing requirements using principles of Hazard Analysis of Critical Control Points (HACCP).

SECTION VII: COPYRIGHT/TRADEMARK LAWS

Patents

The [Patents Act 1953](#) ("the Act") governs patents in New Zealand. In December 2004, the Ministry of Economic Development released draft legislation intended to replace the Patents Act 1953 and to bring New Zealand's patent law into conformity with international standards. This draft would keep the maximum patent term at 20 years, but would tighten the criteria for granting a patent. To date, the draft legislation has not been acted on.

In New Zealand, the two main criteria for the granting a patent are if it is "new" or if it is a "manner of new manufacture". An invention is considered new if a description of the invention has not been published in New Zealand before the filing date of the application. No notice is taken of information published outside New Zealand but not publicly available within New Zealand. "Manner of new manufacture" has been interpreted by the courts to exclude such things as "products of nature", mathematical operations, bare principles, mathematical algorithms, schemes or plans and methods of medical treatment of humans. As a condition of the granting of a patent, a full description of the invention is required. A patent will not be granted for things that do not qualify as a "manner of new manufacture". A patent will last for twenty years from the date that [Intellectual Property Office of New Zealand](#) (IPONZ) receives a complete application provided that the renewal fees are paid at the end of the fourth, seventh, tenth and thirteenth years of the patent's existence.

New patents legislation expected to be release Sept/Oct and be in force by mid-2009.

Trademarks

In New Zealand, protection is provided to registered trademarks through the Trade Marks Act 2002. This Act defines the scope of rights protected by trademarks, simplifies and streamlines processes for registering a trade mark, introduces new measures to deter pirating of copyright works and counterfeiting of trade marks, and strengthens protection for well-known trademarks.

Trademark protection can be provided to almost any sign that is capable of being represented graphically, and is capable of distinguishing the goods or services of one person from those of another. Once a trademark is registered, the owner has the exclusive right to use that trademark. The initial registration lasts for a period of ten years from the date the [Intellectual Property Office of New Zealand](#) (IPONZ) received an application. The registration is thereafter renewable for further periods of ten years, for an indefinite period.

Copyright

The Copyright Act 1994 governs copyright law in New Zealand. These rights allow copyright owners to control certain activities relating to the use and dissemination of copyright works. New Zealand is party to various international agreements, including:

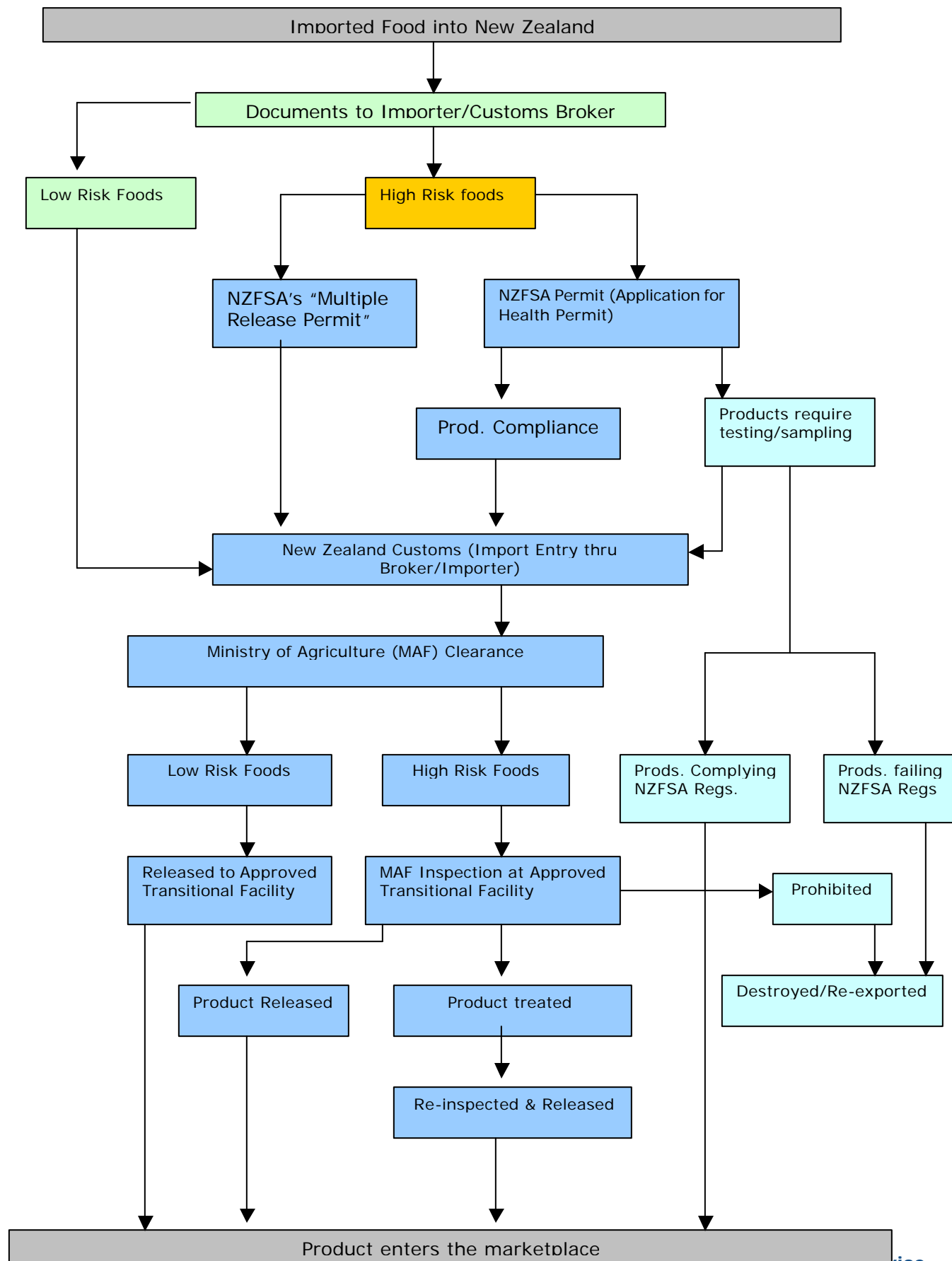
- The Agreement on the Trade-Related Aspects of Intellectual Property Rights (the [TRIPS Agreement](#)) (Annex 1C to the Agreement Establishing the [World Trade Organisation](#) (WTO) 1994);
- The [Berne Convention for the Protection of Literary and Artistic Works 1928](#) (Rome Act revision);
- The [Universal Copyright Convention 1952](#).

For a "work" or type of material to qualify for copyright protection, four conditions must generally be satisfied:

- It must fall within one of the categories or subject matter in which copyright can exist;
- It must be sufficiently "original";
- The "author" must be a "qualified person"; and
- Certain works must be fixed either in writing or some other material form.

Copyright protection applies only for a limited period of time (mostly lasting 15-50 years). Once copyright expires, it falls into the 'public domain' and can be freely used.

SECTION VIII: IMPORT PROCEDURE



APPENDIX I: GOVERNMENT REGULATORY AGENCY CONTACTS

New Zealand Food Safety Authority
PO Box 2835
Wellington
New Zealand
Phone: (+64)-4-463 2500
Fax: (+64)-4-463 2501
Web: www.nzfsa.govt.nz

Food Standards Australia New Zealand
PO Box 10559
Wellington 6036
New Zealand
Phone: (+64)-4-978-5630
Fax: (+64)-4-473 9855
Email: info@foodstandards.govt.nz
Web: www.foodstandards.govt.nz

Ministry of Agriculture and Forestry
PO Box 2526 Wellington
New Zealand
Phone: (+64)-4-474 4100
Fax: (+64)-4-474 4244
Web: www.maf.govt.nz

Environmental Risk Management Authority
PO Box 131
Wellington
New Zealand
Phone: (+64)-4-916 2426
Fax: (+64)-4-914 0433
Email: info@ermanz.govt.nz
Web: www.ermanz.govt.nz

New Zealand Customs Service
(Wellington, Corporate Office)
PO Box 2218
Wellington, New Zealand
Phone: (+64)-4-473 6099
Fax: (+64)-4-473 7370
Email: feedback@customs.govt.nz
Web: www.customs.govt.nz

Ministry of Consumer Affairs
PO Box 1473
Wellington, New Zealand
Phone: (+64)-4-474 2750
Fax: (+64)-4-473 9400
Email: mcainfo@mca.govt.nz
Web: www.consumeraffairs.govt.nz
New Zealand Commerce Commission
PO Box 2351
Wellington

New Zealand
Phone: (+64)-4-924 3600
Fax: (+64)-4-924 3700
Email: contact@comcom.govt.nz
Web: www.comcom.govt.nz

Intellectual Property Office of New Zealand
PO Box 30 687
Lower Hutt
Wellington
New Zealand
Phone: (+64)-4-569 4400
Fax: (+64)-4-569 2298
Web: www.iponz.govt.nz

The Commissioner
Plant Variety Rights Office
PO Box 24
Lincoln
New Zealand
Phone: (+64)-3-325 2414
Fax: (+64)-3-325 2946

Ministry of Health
PO Box 5013
Wellington
New Zealand
Phone: (+64)-4-496 2000
Fax: (+64)-4-496 2340
Email: EmailMOH@moh.govt.nz
Web: www.moh.govt.nz

Auckland District Health Board Central Clearing House
Auckland
New Zealand
Phone: (+64)-9-638 9909
Fax: (+64)-9-630 7470
Email: baskern@adhb.govt.nz
Web: <http://www.arphs.govt.nz/Services/ImportedFood/ImportedProducts.asp>

Department of Conservation
PO Box 10420
Wellington
New Zealand
Phone: (+64)-4-471 0726
Fax: (+64)-4-471 1082
Web: www.doc.govt.nz

SPS & TBT Contacts

Coordinator, SPS New Zealand
Ministry of Agriculture and Forestry
PO Box 2526
Wellington

New Zealand
Phone: (+64)-4-474 4226
Fax: (+64)-4-470 2730
Web: <http://www.maf.govt.nz/biosecurity/sps/index.htm>

TBT Enquiry Point
Trade Negotiations Division
Ministry of Foreign Affairs and Trade
Private Bag 18 901
Wellington
New Zealand
Phone: (+64)-4-439 8000
Fax: (+64)-4-472 9596
Email: tnd@mft.govt.nz
Web: www.mfat.govt.nz

APPENDIX II: OTHER CONTACTS

Foreign Agricultural Service, U.S. Department of Agriculture
U.S. Embassy
PO Box 1190
Thorndon
Wellington
New Zealand
Phone: (+64)-4-462 6030
Fax: (+64)-4-462 6016
Email: AgWellington@fas.usda.gov
Web: <http://www.usembassy.org.nz>

American Chamber of Commerce
PO Box 106 002
Auckland
New Zealand
Phone: (+64)-9-309 9140
Fax: (+64)-9-309 1090
Email: amcham@amcham.co.nz
Web: <http://www.amcham.co.nz/>

New Zealand Grocery Marketers Association
PO Box 1925
Wellington
New Zealand
Phone: (+64)-4-473 9223
Fax: (+64)-4-496 6550
Email: gma@businessnz.org.nz
Web: www.gma.org.nz

Foodworks - Food, Beverage & Grocery New Zealand
PO Box 32 418
Devonport
Auckland 1309
New Zealand
Phone: (+64)-9-445 3621

Fax: (+64)-9-445 6287
Email: chris@foodworks.co.nz
Web: www.foodworks.co.nz

Intellectual Property Policy Group
Regulatory and Competition Policy Branch
Ministry of Economic Development,
33 Bowen Street, PO Box 1473
Wellington, New Zealand
Phone: (+64)-4-472-0030
Fax: (+64)-4-473-4638
Email: info@med.govt.nz